

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION**

RUSSELL, et al.

Plaintiffs,

V.

HARRIS COUNTY, TEXAS, et al.

Defendants.

Case No. 4:19-cv-00226

(Class Action)

The Honorable Lee H. Rosenthal

U.S. District Judge

AGREED MOTION FOR PROTECTIVE ORDER

Plaintiffs respectfully request that the Court enter the Proposed Protective Order to which all parties have agreed. *See* Exhibit A (the “Agreed Order”). The Agreed Order will promote efficient discovery. It is based on the Protective Order entered in *ODonnell (ODonnell v. Harris County*, Case No. 16-cv-1414 (S.D. Tex. Nov. 15, 2016), Dkt. 91), but includes several changes intended to promote transparency, streamline disputes, and avoid unnecessarily burdening the Court and the parties with litigation relating to confidentiality designations.

Provision 1 sets forth eleven (11) specific categories of information that the parties agree should be treated as Confidential. These categories are based on experience working in Harris County and the specific types of sensitive, personal information that are likely to be exchanged in discovery in this specific case. Provision 1(a) sets forth a process for the Parties to confer and add other categories of information to the list in Provision 1 without requiring Court involvement, unless there are disputes about whether to add a proposed category.

Provision 3 requires the producing party to state with specificity, at the time of production, the reason any document or portion of a document was designated Confidential. This provision is not intended to be burdensome, and can be complied with in any reasonable way, including an

email stating the basis for the designations, a cover letter, or a log. It is drafted to ensure there is clarity about the reasons a document was designated Confidential and is intended to avoid both unnecessary back-and-forth between counsel and disputes requiring Court involvement.

Provision 8 applies specifically to data and is intended to ensure that important information about a government system affecting tens of thousands of people every year is public to the maximum extent possible, while also protecting sensitive health, financial, and identifying information. Like Provision 1(a), this provision strikes a balance between legitimate privacy concerns and the default rule that court proceedings—state and federal—must occur in the open.

Finally, Provision 16 sets forth a simple, streamlined process for challenging the designation of certain documents as “Confidential.” It requires the parties to confer and, if they cannot reach agreement, requires the receiving party to file a motion challenging the designation and the producing party to demonstrate that the designation is proper under the Protective Order.

The Agreed Order should be entered.

Date: September 3, 2020

Respectfully Submitted,

/s/ Alec Karakatsanis

/s/ Elizabeth Rossi

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CERTIFICATE OF SERVICE

I certify that on September 3, 2020 a true and correct copy of this document properly was served on counsel of record via electronic filing in accordance with the USDC, Southern District of Texas Procedures for Electronic Filing.

/s/ Elizabeth Rossi

Elizabeth Rossi